

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CR No. 03-00048DAE
)
Plaintiff,) Honolulu, Hawaii
) February 12, 2004
) 1:05 p.m.
v.)
)
DEON JOSEPH,)
)
Defendant.)

TRANSCRIPT OF WITHDRAWAL OF NOT GUILTY PLEA AND TO PLEAD ANEW
BEFORE THE HONORABLE LESLIE E. KOBAYASHI
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff: U.S. ATTORNEY'S OFFICE
By: BEVERLY WEE SAMESHIMA, ESQ.
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Proceedings recorded by electronic sound recording, transcript
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EXHIBIT A

1 THE CLERK: This Honorable Court is now in session.
2 Please be seated. Criminal 03-00048DAE, United States of
3 America versus defendant one, Deon Joseph. This case has been
4 called for hearing on a motion for withdrawal of not guilty plea
5 and to plead anew.

6 MS. SAMESHIMA: Yes, good afternoon, your Honor,
7 Beverly Wee Sameshima on behalf of the United States together
8 with special agent Dennis Imamura of the Bureau of Immigration
9 and Customs Enforcement.

10 THE COURT: All right. Good afternoon to you both.

11 MR. OYAMA: Good afternoon, your Honor, Randy Oyama
12 appearing on behalf of Deon Joseph who is present in Court
13 today.

14 THE COURT: All right. Good afternoon to you both.
15 The record will reflect the presence of Mr. Joseph. Mr. Joseph,
16 is it your intention today to plead guilty as charged to Counts
17 1 and 2 of the indictment?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: All right. Before the Court can accept
20 your guilty plea I must know that you understand what you are
21 doing, that you are pleading guilty freely and voluntarily, that
22 there is a factual basis for your change of plea, and that the
23 ends of justice would be met by permitting you to plead guilty.

24 To make sure that you understand I will ask you
25 questions. If at any time you do not understand or hear the

1 questions I ask of you please say so. Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Mr. Nakamura, will you please swear Mr.
4 Joseph?

5 DEON JOSEPH

6 Was called by the Court and after having been first duly sworn
7 was examined and testified as follows:

8 THE COURT: What is your full name?

9 THE DEFENDANT: Deon Devon Emmanuel Joseph.

10 THE COURT: How old are you?

11 THE DEFENDANT: 35 years old.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: I got a bachelor's in -- in business
14 and a minor in computer science.

15 THE COURT: All right. So, you can read and write in
16 English; correct?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Have you taken any medication,
19 alcohol or drugs of any kind today?

20 THE DEFENDANT: At the moment I'm taking Ibuprofen for
21 and -- and Penicillin. That's about it.

22 THE COURT: All right. And any of these medications
23 affect your ability to think or make decisions?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: All right. Are you feeling well and alert

1 and able to understand today what's going on?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Have you been treated recently for any
4 mental illness or addiction to narcotic drugs of any kind?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Mr. Oyama, to the best of your knowledge
7 is your client fully competent and capable of entering a valid
8 plea?

9 MR. OYAMA: Yes, your Honor.

10 THE COURT: The Court finds the defendant is fully
11 competent and capable of entering a valid plea. Now, Mr.
12 Joseph, you have the right to plead or enter your plea before a
13 United States District Judge, in this case Chief Judge Ezra. If
14 you consent, however, you can enter your plea here today before
15 me as a United States Magistrate Judge, and then Judge Ezra will
16 impose sentence at a later date. Do you understand that?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you wish to consent to enter your plea
19 before me here today?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: I have the Rule 11 consent file-marked
22 February 12th, 2004, and on the second page there are three
23 signatures. Is that your signature, Mr. Joseph?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right. And, Mr. Oyama, did you

1 discuss this form with your client, and are you fully satisfied
2 yourself that he understands it?

3 MR. OYAMA: I did, your Honor, and he understands it.

4 THE COURT: And you signed it also; is that correct?

5 MR. OYAMA: Yes, your Honor.

6 THE COURT: The Court finds the defendant has
7 consented to enter his plea before a United States Magistrate
8 Judge. Mr. Joseph, have you received a copy of the indictment
9 pending against you that is the written charges against you in
10 this case?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Have you discussed those charges and all
13 the facts surrounding those charges with your lawyer Mr. Oyama?

14 THE DEFENDANT: Yes, your Honor. And if I may say I
15 have some concerns with -- with a paragraph in this -- in this
16 agreement.

17 MR. OYAMA: He's referring to the sheet that the
18 Government gave you, your Honor.

19 THE COURT: All right. Yeah, and -- and these --
20 these are definitely what the Government is representing and --
21 and there's no -- they're not saying that you would agree to
22 this. So, you're not agreeing to it. And I will ask you at one
23 point what it is that you did that makes you guilty of the
24 offenses that you wish to plead guilty to, and you have to tell
25 me in your own words.

1 At one point I will ask Ms. Sameshima what -- what
2 evidence she expects to show at trial if this went to trial, and
3 I think she'll go into what she has written in her letter of
4 February 10. You may not agree with those facts, but that's
5 what she may represent to the Court. And I will go to a point
6 though and ask you what it is that you did that makes you guilty
7 of Counts 1 and 2, and -- and you need to tell me that at that
8 time.

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. Now, are -- are you fully
11 satisfied with the legal representation that you've received
12 from Mr. Oyama in this case?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. And, Mr. Oyama, are your client's
15 guilty pleas pur -- pursuant to your advice and recommendation
16 here today?

17 MR. OYAMA: They are, your Honor.

18 THE COURT: All right. For the offenses charged in
19 Counts 1 and 2 of the indictment, Ms. Sameshima, if you would
20 state for the Court and Mr. Joseph what are the potential
21 penalties he would face if he enters guilty pleas to both these
22 Counts including any -- the maximum period of imprisonment, any
23 mandatory minimum, maximum and minimum fines, maximum and
24 mandatory minimum periods of supervised release, and what
25 special penalty assessments apply.

1 MS. SAMESHIMA: Yes, your Honor. With respect to both
2 Counts 1 and 2 the minimum term of the sentences are a minimum
3 of five years in prison with respect to each of those two counts
4 and a maximum of 40 years in prison. For both of the Counts, a
5 fine from zero to \$2 million, a term of supervised release of a
6 minimum of four years and potentially up to life, and there is a
7 \$100.00 special assessment for each of Counts 1 and 2, which
8 means that it would be a total special assessment of \$200.00.

9 THE COURT: All right. Mr. Oyama, do you agree with
10 that summary as to the potential penalties?

11 MR. OYAMA: I do, your Honor.

12 THE COURT: All right. Mr. Joseph, do you understand
13 these are the possible penalties which would apply if you enter
14 guilty pleas to Counts 1 and 2?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: All right. If you are convicted of more
17 than one offense -- so, if you plead guilty to both of those you
18 would be convicted of more than one offense. The Court has the
19 authority to order what's called consecutive sentences. If the
20 Court did so you would have to serve those sentences one at a
21 time. Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: During a period of supervised release you
24 would have to comply with a set of conditions that will be
25 explained to you by your probation officer. These conditions

1 would include that you obey the law, report to the probation
2 officer as required and other requirements.

3 If the Court found that you violated any of these
4 conditions you could be ordered to serve additional prison time.
5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Are you presently on probation, parole or
8 supervised release on any other case?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Does the United States contend that any
11 offense to which he is today pleading guilty occurred while he
12 was out on bond in relation to some other Federal criminal
13 charge, Ms. Sameshima?

14 MS. SAMESHIMA: No. No, your Honor.

15 THE COURT: If you are convicted of the charges in
16 this case you may lose valuable civil rights as a citizen of the
17 United States including the right to vote, the right to serve on
18 a jury, the right to possess any kind of firearm, and the right
19 to hold public office. Do you understand that, Mr. Joseph?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: The United States Sentencing Commission
22 has issued guidelines for judges to use in determining sentences
23 in a criminal case. Have you and your lawyer talked about these
24 guidelines and how they may apply to you and your case?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand that the Court will not
2 be able to determine the guideline sentence for your case until
3 after the presentence report has been prepared, and until after
4 you and the Government have had an opportunity to read that
5 report and to comment on the reported facts and the application
6 of the guidelines as recommended by the probation officer?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you also understand that any sentence
9 imposed may be different from any estimate your attorney may
10 have given you?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Okay. Do you also understand that after
13 your guideline range has been determined the Court has the
14 authority in some circumstances to depart from the guidelines
15 and to impose a sentence that may be more severe or less severe
16 than what's required by the guidelines?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: If the sentence is more severe than you
19 expected you will still be bound by your pleas. So, even if you
20 don't like the sentence imposed by the Court you will not be
21 able to take back your plea. The time to make that decision is
22 now. Do you understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All right. Parole has been abolished. If
25 sentenced to prison you will not be released on parole. Do you

1 understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Has anyone made any promises or assurances
4 of any kind in order to get you to plead guilty?

5 THE DEFENDANT: Uh, that's -- that's a complicated
6 question, your Honor. I have some -- I have written five
7 letters, one letter to you and four letters to Mr. -- to the
8 Honorable Ezra. In those letters I've stated all the things
9 which seems to me deemed to be very serious. I've gotten no
10 response.

11 So, when you ask me if I've been forced, I've been
12 promised, I can say in my first debriefing I was given a
13 promise, and this was 12 months ago.

14 Now, we sit here 12 months after and there's a total
15 -- total U-turn in -- in -- I've had -- I've had three different
16 attorneys. This is my third attorney.

17 THE COURT: Uh-huh.

18 THE DEFENDANT: And I've been lied to, I've been given
19 implausible answers. I've never hesitated about any questions
20 asked, and I'm the one that's been charged here.

21 THE COURT: Uh-huh.

22 THE DEFENDANT: And I promised to testify and do
23 whatever they asked me to do, and I still will. Without going
24 into detail, because I -- like I said I've mailed those letters,
25 one to you, ma'am, your Honor --

1 THE COURT: Right.

2 THE DEFENDANT: -- and four to Mr. Ezra. And --

3 THE COURT: Right. And those have been actually
4 forwarded to your attorneys at the time for them to take that up
5 with the Court, because you can't communicate directly with the
6 Court and to file any motion.

7 As a result of those I think you've had a replacement
8 counsel, and so, Mr. Oyama is your attorney today. So, I know
9 that you're pleading guilty, or it's been represented to me that
10 you are pleading guilty to these charges and that there's no
11 plea agreement.

12 There's no agreement by the Government to you that
13 they'll take any position with regard to sentencing or dismiss
14 any charges or what have you, and no promise by you to the
15 Government in terms of cooperation or anything else.

16 So, I need to know if you are pleading guilty, because
17 you are in fact guilty to Counts 1 and 2, and you know that
18 you're going to plead guilty and go forward with the sentencing,
19 or if you're pleading guilty, because you believe some promises
20 have been made to you with regard to sentencing or anything
21 else.

22 THE DEFENDANT: No, no promises was -- was ever made
23 as far as sentencing, your Honor. I'm -- and I'm pleading
24 guilty, because I am guilty, but I tried to plead guilty the
25 first time I was in front of you, and this was 12 months ago.

1 THE COURT: Right.

2 THE DEFENDANT: And I was persuade -- persuaded not to
3 plead guilty.

4 THE COURT: Okay.

5 THE DEFENDANT: I've spoken to the gentleman to the
6 right of --

7 THE COURT: Uh-huh.

8 THE DEFENDANT: -- I'm sorry, I can't remember his
9 name.

10 THE COURT: Ms. Sameshima. Uh-huh, yeah. Mr. --
11 Agent Iwamura.

12 THE DEFENDANT: Agent Iwamura.

13 THE COURT: Uh-huh.

14 THE DEFENDANT: And in that -- in that meeting they
15 had decided to have me as far as staying in this country,
16 because -- because of the case and -- and the complication of
17 this case I cannot go back to where I'm from, or nowhere close
18 to where I'm from.

19 THE COURT: Uh-huh.

20 THE DEFENDANT: And the people that I'm dealing with
21 are connected not only in the Caribbean, it's also South America
22 and also in this country.

23 THE COURT: Uh-huh. So, you're not a citizen of the
24 United States.

25 THE DEFENDANT: No. No, your Honor.

1 THE COURT: Okay. So, what I need to warn you is that
2 if you do plead guilty a conviction in this case might also
3 affect your right to remain in this country. Do you understand
4 that?

5 THE DEFENDANT: I understood that from the start, your
6 Honor.

7 THE COURT: All right.

8 THE DEFENDANT: And so, when you ask me if -- if I'm
9 threatened --

10 THE COURT: Right. Has anyone made any promises or
11 assurances in order to get you to plead guilty?

12 THE DEFENDANT: Not to plead guilty, your Honor.

13 THE COURT: Okay.

14 THE DEFENDANT: Not to plead guilty.

15 THE COURT: Has anyone threatened you or tried to
16 pressure you in any way to plead guilty?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: All right. You have certain rights, and
19 those rights include the right to plead not guilty and to go to
20 trial. At trial you would be presumed to be innocent and the
21 United States would have the burden of proving that you are
22 guilty beyond a reasonable doubt.

23 At trial you'd have the right to have Mr. Oyama
24 represent you and to defend you. You'd have the right to see
25 and hear all witnesses, testify yourself or remain silent and

1 not testify, have the Court issue subpoenas for any witnesses
2 you wish to call in your defense.

3 Before you can be convicted all 12 jurors must be
4 convinced that the United States proved you are guilty beyond a
5 reasonable doubt. And if you are convicted after the trial
6 you'd have the right to appeal that conviction to a higher
7 court. If you could not afford to pay the costs of such an
8 appeal the Government would pay those costs for you. Do you
9 understand that you have these rights?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: If you plead guilty, however, you will
12 waive or give up those rights and there will be no trial. Do
13 you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: All right. As long as you plead not
16 guilty you do have the right to remain silent, but if you choose
17 to plead guilty I'm going to ask you what it is that you did
18 that makes you guilty of Counts 1 and 2, and you need to tell me
19 in your own words truthfully, even if your answers establish
20 that you committed crimes. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: All right. Ms. Sameshima, if you would
23 state for the Court and for Mr. Joseph what are the essential
24 elements of Counts 1 and 2 that the Government will have to
25 prove if this matter went to trial?

1 MS. SAMESHIMA: Yes, your Honor. With respect to
2 Count 1, which is the importation count, the Government would
3 have to prove that the defendant imported a controlled substance
4 from outside the United States into the United States, that he
5 knew that it was a controlled substance, in this case cocaine,
6 and that he knew that the importation involved 500 gram or more
7 of cocaine.

8 With respect to the attempt to possess with intent to
9 distribute the Government would have to prove that the defendant
10 knowingly took a substantial step towards the possession with
11 the intent to distribute cocaine, that he knew it was a
12 controlled substance, and that the attempt involved 500 grams or
13 more of cocaine.

14 THE COURT: All right. Mr. Oyama, do you disagree in
15 any respect with that summary?

16 MR. OYAMA: No, your Honor.

17 THE COURT: All right. Mr. Joseph, do you understand
18 if this went to trial the Government would have to bring forth
19 evidence such as witnesses and physical evidence such as the
20 drugs and chemists who would testify about the drugs to prove
21 each of those essential elements beyond a reasonable doubt?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: All right. Now, I need you to tell me in
24 your own words what it is that you did that makes you guilty of
25 Count 1. And Count 1 charges you -- that for an unknown time

1 period up to January 23, in the District of Hawaii, that's the
2 State of Hawaii and elsewhere, that you and others did knowingly
3 and intentionally import into the United States from a place
4 outside the United States the quantity of 500 grams or more of a
5 mixture or substance containing cocaine. What did you do that
6 makes you guilty of this offense?

7 THE DEFENDANT: I'm part of -- I'm part of what
8 happened, your Honor. I took -- I take full responsibility for
9 what I've done --

10 THE COURT: Uh-huh.

11 THE DEFENDANT: -- but by no means I'm responsible for
12 anyone and -- or anyone else.

13 THE COURT: All right. Let me ask you this. There
14 was a parcel that came in through Federal Express that was
15 originated from a Mike Wallace in St. Johns, Antigua, and was
16 addressed to a Robert Matsuda at 1468-1 Liliha Street address in
17 Honolulu, and inside that parcel there was cocaine found. Did
18 you have anything to do with that parcel full of cocaine being
19 brought into this country?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: All right. And you knew that it was
22 cocaine that was being brought into this country; is that
23 correct?

24 THE DEFENDANT: I -- I know it was cocaine, but as far
25 as the -- the amount that was in the box, your Honor, I had no

1 -- I had no -- I had no --

2 THE COURT: You didn't now how much it was?

3 THE DEFENDANT: -- no, your Honor.

4 THE COURT: All right. So, you -- do you -- okay.

5 So, you knew it was cocaine, and you knew it was coming from
6 outside the United States to the State of Hawaii; would that be
7 fair to say?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. Now, the amount of it -- it
10 says a quantity of 50 grams or more -- in the indictment it says
11 1,000 grams. You're saying you don't know the amount, but do
12 you argue, or do you have any disagreement that it was at least
13 500 grams?

14 THE DEFENDANT: Usually -- usually after the box comes
15 I -- yes, your Honor.

16 THE COURT: Okay. So, you -- you don't argue that it
17 -- with the -- with the charge that it was at least 500 grams or
18 more?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: All right. But there's no stipulation as
21 to how much; would that be fair, Mr. Oyama?

22 MR. OYAMA: That's fair, your Honor.

23 THE COURT: Okay. Now, as to Count 2, that charges
24 you with knowingly and intentionally attempt -- attempting to
25 possess with the intent to distribute 500 grams or more of

1 cocaine.

2 So, in that it's saying that you knew and
3 intentionally attempted to sell or assist people in selling this
4 cocaine. What is it that you did that makes you guilty of Count
5 2?

6 THE DEFENDANT: I'm a little -- I'm a little confused
7 at the moment, your Honor. If you could repeat it.

8 THE COURT: All right. So, Count 2 charges you with
9 knowingly and intentionally attempt to possess with the intent
10 to distribute 500 grams or more of cocaine.

11 Count 1, charges you with knowingly and intentionally
12 importing into the United States. So, you knew that it was
13 coming outside of the United States and coming to this country
14 and that it contained cocaine.

15 All right. Count 2, charges you with knowing that
16 it's cocaine and having it so that you could sell it or dis --
17 or assist other people in -- in distributing it, selling it to
18 other people. I mean did you know what the cocaine was being
19 brought in for?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: All right. And what was it being brought -
22 in for?

23 THE DEFENDANT: For my use and other peoples use, your
24 Honor.

25 THE COURT: All right. And the other people that

1 would use it that -- it was anticipated that they were going to
2 pay money for it; would that be fair to say?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: All right. And you knew that when the
5 cocaine was being brought in?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right. And it -- it alleges that
8 there was 500 grams or more. Again, you don't know the exact
9 weight; would that be fair to say?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. But you're not arguing that it
12 was any less than 500 grams; would that be fair to say?

13 THE DEFENDANT: Yes, your Honor. I couldn't say
14 either or, so --

15 THE COURT: Right. You can't say that it's 1,000
16 grams as indicated, but it -- it does charge you with -- that it
17 was at least 500 grams, it's 500 grams or more. And so, you're
18 not disputing that it was 500 grams or more.

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: All right. But there's no stipulation as
21 to the actual amount; correct, Mr. Oyama?

22 MR. OYAMA: Yes, your Honor.

23 THE COURT: All right. And all of these events
24 occurred in the State of Hawaii; would that be fair to say?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: All right. You were in Hawaii --

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: -- all right, when you knew that the
4 cocaine was coming into this country; correct?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: And you were in Hawaii when you -- when
7 the cocaine arrived; correct?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And -- and you were in Hawaii when you
10 knew that the cocaine was going to be for your use and also to
11 sell to others?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: All right. And what did you do, if
14 anything, to -- to advance or to help sell the -- the cocaine?

15 THE DEFENDANT: I was the only person that he could --
16 Mr. Cornwall could really trust.

17 THE COURT: Okay.

18 THE DEFENDANT: For the three months that he was here
19 I handled -- I handled no cocaine. There was -- I have four --
20 three other -- three co-defendants, one is Ms. Kalili. She was
21 with Mr. -- Mr. Cornwall for the three months that he was here.

22 THE COURT: All right.

23 THE DEFENDANT: And I had no knowledge of where the
24 cocaine was. And there's another lady that's involved in this
25 case also whose name is Ms. Nana Bittle, and I think she will

1 verify that I had no knowledge of where the cocaine was for the
2 three months that he was here.

3 The only reason why that cocaine was sent is because
4 I'm -- I'm the only one that he trusted.

5 THE COURT: All right.

6 THE COURT: In Ms. Kalili's mind he was going to give
7 everything to her.

8 THE COURT: Yeah.

9 THE DEFENDANT: I later found out, and I should
10 apologize now, because I went against your demands. I was
11 speaking to Ms. Kalili and, again, I would like to apologize for
12 that, because we are co-defendants. I found out since I've been
13 in prison that they were sleeping together, and --

14 THE COURT: Uh-huh. So, they are sort of united
15 against you in that respect, but --

16 THE DEFENDANT: Well, I'm not sure -- well --

17 THE COURT: -- yeah, but were you the one who gave the
18 address, the Liliha Street address to Mr. Cornwall, so the
19 package got sent to the Liliha Street address?

20 THE DEFENDANT: Mr. Cornwall had that address maybe a
21 week or maybe a month before the package was sent.

22 THE COURT: Okay.

23 THE DEFENDANT: Like I said the three months he was
24 here --

25 THE COURT: Right.

1 THE DEFENDANT: -- him and -- Ms. Kalili and him was
2 the one that was running around.

3 THE COURT: All right.

4 THE DEFENDANT: So, he had that address before -- even
5 before -- like a month before that date.

6 THE COURT: Okay. So, it wasn't through you. You --
7 you dispute that he got the address from --

8 THE DEFENDANT: No, ma'am. No, ma'am.

9 THE COURT: -- all right. But you're saying you had a
10 relationship with Mr. Cornwall; is that correct?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: All right. And so, because of this
13 relationship you were able to have the cocaine brought into the
14 United States?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Okay. All right. The Court finds that
17 there is a sufficient basis in fact containing each of the
18 essential elements of the offenses charged against him.

19 So, I'm going to ask you know how do you plead to
20 Count 1, and then I'll ask you how you plead to Count 2. All
21 right. How do you now plead to the charge against you in Count
22 1? Count 1, charges you with knowingly and intentionally
23 importing into the United States from a place outside a quantity
24 of 500 grams or more of cocaine. How do you plead to that
25 charge, guilty or not guilty?

1 THE DEFENDANT: Guilty, your Honor.

2 THE COURT: How do you now charge to -- how do you now
3 plead to the charge against you in Count 2, that charges you
4 with knowingly and intentionally attempting to possess with the
5 intent to distribute 500 grams or more of cocaine, guilty or not
6 guilty?

7 THE DEFENDANT: Guilty, your Honor.

8 THE COURT: All right. Mr. Oyama, are you aware of
9 any reason why the Court should not accept your client's pleas
10 of guilty?

11 MR. OYAMA: No, your Honor.

12 THE COURT: All right. Mr. Joseph, the Court finds
13 that you are fully competent and capable of entering a valid
14 plea, that your plea of guilty is knowing and voluntary and
15 supported by an independent basis in fact containing each of the
16 essential elements of the offenses charged against you in Counts
17 1 and 2 of the indictment.

18 I am therefore signing the report and recommendation
19 of the -- regarding the pleas of guilty, and I am recommending
20 that you be adjudged guilty and have your sentence imposed.
21 Objections to the report and recommendations are filed -- are
22 waived unless filed and served within ten days of today's date.

23 I'm going to order our Probation to prepare that
24 presentence report about you. This is the report about you and
25 your case, and it's going to help Chief Judge Ezra decide what

1 your sentence should be. The probation officer will need to
2 interview you. If you wish, Mr. Oyama can be present during
3 that interview.

4 Once the report is completed you'll have an
5 opportunity to read it, and to comment and object to the facts
6 as reported and also the application of the guidelines as
7 recommended by the probation officer. You will then have an
8 opportunity at your sentencing hearing to say words before Judge
9 Ezra imposes your sentence. Do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. Mr. Nakamura, if you would set
12 the sentencing date and time.

13 THE CLERK: Sentencing as to Counts 1 and 2 of the
14 indictment will be on November 15th, 2004, at 1:30 p.m., before
15 Chief Judge David Alan Ezra.

16 THE COURT: All right. Mr. Joseph, you're going to
17 remain in custody pending your sentencing pursuant to the prior
18 detention order. Is there anything further on behalf of the
19 Government, Ms. Sameshima?

20 MS. SAMESHIMA: No, your Honor. Thank you.

21 THE COURT: All right. Anything further, Mr. Oyama?

22 MR. OYAMA: No, thank you, Judge.

23 THE COURT: All right. Mr. Joseph, I'm going to
24 remand you back to the custody of the U.S. Marshals Services.
25 Good luck to you, sir.

1 THE DEFENDANT: Thank you, your Honor.

2 THE COURT: All right.

3 (At which time the above-entitled proceedings were
4 concluded.)

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